

REMARKS

Claims 1-33 are pending. Claims 1-33 stand variously rejected as allegedly being unpatentable over one or more of U.S. Patent No. 6,233,559 to Balakrishnan ("Balakrishnan"), U.S. Patent No. 6,101,473 to Scott et al. ("Scott"), and U.S. Patent No. 6,532,444 to Weber ("Weber").

In view of the amendments and remarks herein, the rejections are respectfully traversed. Reconsideration and allowance are respectfully requested.

Claims 1-11

Claim 1 is patentable over the cited references because there is no motivation to modify the teachings of Balakrishnan to include a speech engine separate from the first and second applications, where first and second grammars are loaded onto the speech engine, as recited in claim 1.

The office action cites Scott as teaching a speech engine separate from first and second applications. In contrast, Scott teaches a speech recognition server that interfaces between the internet and telephone systems: "This invention links networks such as the Internet and the World Wide Web to a speech recognition server, which resides on the telephone system, to provide for speech access to those networks over standard telephone lines and control of telephony functions through

standard web pages." (Please see the column 2, lines 58-63 of Scott, emphasis added).

Although Scott does include a speech recognition server, there is no teaching or suggestion in Scott of other features of claim 1. Thus, the office action is plucking one missing feature of claim 1—a speech recognition server—from a reference in order to recreate the features of claim 1.

However, claim 1 requires more than the presence of a speech engine separate from first and second applications. Thus, modifying Balakrishnan to include the speech engine of Scott does not teach all features of claim 1. Balakrishnan would need to be modified so that first and second grammars are loaded onto the speech engine rather than or in addition to loading the grammars onto the applications themselves. Such a feature is not shown in either reference.

Further, there is no motivation to make such a modification of Balakrishnan or of Scott. In fact, it would appear to require a significant redesign of Balakrishnan.

In Balakrishnan, first and second grammars are loaded on the applications. As noted previously, Balakrishnan teaches systems and techniques for determining which of multiple applications will process particular speech. In doing so, Balakrishnan teaches that the applications themselves include applets to search the application and determine a score that represents the

probability that the particular speech is directed to the particular application.

The office action alleges that the motivation to modify Balakrishnan is that "it would advantageously allow for more than one applications to access the speech engine," and cites Scott at column 2 lines 65 to column 3, line 2 for this proposition. However, since Balakrishnan teaches that the applications themselves include the applets to search the application, it is not clear why loading first and second grammars onto a speech engine separate from the first and second applications would provide a benefit in the system of Balakrishnan.

The office action thus fails to present a motivation for modifying Balakrishnan to include the features of claim 1. Instead, it appears that the rejection has impermissibly used hindsight in an attempt to reconstruct Applicant's invention. It is improper to use Applicant's disclosure as the motivation to combine the particular teachings in the cited references: "The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure," MPEP 2143, citing *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991).

For at least the above reasons, claim 1 is patentable over the combination of Balakrishnan and Scott.

Claims 2-11 depend from claim 1, and are therefore patentable for at least the same reasons as stated above with respect to claim 1.

Claim 5

Claim 5 is further patentable over Balakrishnan and Scott because neither reference teaches "the speech engine, the first application, and the second application are loaded on a user's computer," as recited in claim 5.

As noted, Balakrishnan does not teach a speech engine separate from first and second applications. The office action alleges that Scott teaches such a speech engine. However, Scott does not teach that any speech engine be loaded onto a user's computer with first and second applications.

In fact, Scott clearly teaches away from a speech engine on a user's computer. In detailing the advantages of its invention, Scott states that "The advantages of the present invention over this method include (1) telephone access serves a far greater potential audience than speech access limited to desktop operations; (2) no additional requirements of the user's computer, such as a speech recognition engine, are required..." (Please see column 2, lines 30-35 of Scott, emphasis added).

For at least this additional reason, claim 5 is patentable over the references.

Claim 8

Claim 8 is patentable for at least the additional reason that the references neither teach nor suggest "unloading a first grammar associated with the first application from the speech engine," as recited in claim 8.

The office action suggests that such a feature is obvious "so that the speech recognizer would not have to consider irrelevant commands." However, loading and unloading grammars also add complexity to a speech recognition system, and in fact, the office action does not cite to any teaching in the references that suggests an overall benefit may be obtained by unloading grammars. Again, it appears that the office action is using impermissible hindsight to reconstruct Applicant's invention.

Claims 12-33

Independent claims 12 and 22 include features similar to those discussed above with respect to claim 1, and are patentable for at least similar reasons. Dependent claims 13-21 and 23-33 depend from claims 12 and 22, respectively, and are patentable for at least the same reasons.

CONCLUSION

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue, or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition,

because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Claims 1-33 are in condition for allowance, and a notice to that effect is respectfully solicited. If the Examiner has any questions regarding this response, the Examiner is invited to telephone the undersigned at (858) 678-4311.

No fees are believed due at this time. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 10/14/04



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